IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

INCOME TAX APPLICATION No.55 of 1999

The Commissioner of Income-
Tax, Mumbai City-XII. ..Applicant.

Vs.

Mrs Roshan D. Nariman .. Respondent.

Mr A. D. Kango for the Applicant.

Mr F. V. Irani i/b Mr A.K. Jasani & S. S. Shetty for the Respondent.

CORAM:DR.S. RADHAKRISHNAN
AND V.C. DAGA,JJ.
DATED:25TH JUNE, 2007.

P.C.:-

1. Heard the learned counsel for the parties.

2. By this application, the applicant is seeking reference regarding the following question of law:

> "Whether on the facts and circumstances of the case Tribunal was right in law in deleting the penalty of Rs. 9,92, 393/- levied under Section 271(1 (c) of the I.T.Act on the ground that the departmental authorities were not justified in levying the penalty?"

3. We have perused the order of the Tribunal. The Tribunal has clearly observed that the respondent-assessee has furnished particulars of her income in part IV of the

return alongwith legal opinion and in view of the decision of the Supreme Court in the case of **Anwar Ali (76 ITR 686)** it is for the revenue to establish that the assessee has concealed income or furnished inaccurate particulars thereof, the Tribunal therefore declined to refer the proposed question. Even our High Court in the case of **C.I.T. V. Lullabhai Hirabhai (Bom) 1991 ITR 427** has also taken similar view that when an assessee had disclosed particulars of his income in part IV of the return, there is no concealment. Hence the penalty cannot be levied under Section 271 (1)(c) of the Income Tax Act, 1961.

4. For the reasons aforesaid, we do not find any substantial question of law for being consideration of this Court. The application stands dismissed.

(V.C. DAGA,J.) **(DR.S. RADHAKRISHNAN,J.)**